



CHARLOTTE

Zoning Interpretation

Automotive Dealer Display Parking

A transitional setback or yard shall also be established for each zoning district which abuts a thoroughfare that has an existing right-of-way which is not as wide as the right-of-way established for that thoroughfare as illustrated in Figure 12.103. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for (a) those uses which are prohibited in the required setbacks or yards as established by this ordinance, or (b) to satisfy any minimum parking requirements if parking is not allowed in the setback or yard by the particular zoning district. However, the transitional setback or yard may be used for parking which exceeds the minimum ordinance parking requirements. The area between the existing right-of-way line and the proposed right-of-way line may not be used to satisfy any minimum parking requirement, any minimum open space requirements, any minimum lot size requirements or any other minimum requirements, imposed by this ordinance. At the time that the proposed right-of-way is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses constructed after May 1, 1989, which are within the transitional setback or yard that are not otherwise permitted in the setback or yard by the district regulations. The property owner shall have one (1) year from the date of right-of-way acquisition to remove any such uses.

The section above purposely permits the establishment of parking that exceeds the zoning ordinances parking space minimums. The zoning ordinance does not require a number of spaces for the display of vehicles for sale. The ordinance also clearly includes language that the excess parking must be removed from the transitional setback area one-year from the time the right-of-way is acquired.

The intent of this section is to permit some economic use of the property reserved for the purposes of road expansion. There is no real visual impact difference between the parking of cars for sale and the parking of cars in general. As such, it seems reasonable to allow the transitional yard to be used for car display.

The findings of fact for ZBA case 05-034 indicate that the ZBA considered the use of an area in the transitional right-of-way as simply parking rather than “display area”.

ISSUE

Can automobile dealers park cars in transitional setbacks?

POLICY

Auto dealerships may place paved parking within the transitional yard for purposes of displaying cars for sale. For the purposes of this interpretation, car display areas established after May 1, 1989 must be removed once the right-of-way is acquired even if the paved area was established prior to May 1, 1989. The date the outdoor display area was established shall be considered the “construction” date.

Date Agreed: December 7, 2006

Approved By: Rodger Lentz

Code Sections: 12.103 (2)

SUPERSEDES :